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(mep)

(212) 264-7240

03-266/77mep
SR-II-77-14
MMSD 1144-77
10 August 1977

Elliot
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Mr. Robert G. Gasson
Inmont Corporation
150 Wagaraw Road
Hawthorne, N.J. 07506

Dear Mr. Gasson:

You have been afforded the opportunity to review the Coast Guard file relating to a discharge of oil alleged to have come from the Inmont Corproation at Hawthorne, New Jersey on 21 March 1977. In response to my letter of 20 June 1977, concerning this alleged discharge, you have submitted information, on behalf of the Inmont Corporation, which you consider pertinent to the allegation and/or the assessment of a penalty.

Upon considering the information made available to me, I find that: On or about 21 March 1977, #6 fuel, which is considered oil within the meaning of the Federal Water Pollution Control Act (the FWPCA) as amended in 1972, flowed from the Inmont Corproation facility, into Inmont Brook, in the vicinity of Hawthorne, New Jersey as a result of tank overflow. This created a film, sheen on the water surface.

This was in violation of Section 311(b)(3) of the Act (33 USC Section 1321 (b)(3)).

In assessing a penalty for the above described violation, I am required by the FWPCA to consider the gravity of the spill, the size of the business, and its ability to continue in business after the assessment of the penalty.

With regard to the gravity of the violation, I have determined the following: it is concluded that the discharge was not intentional; that the discharge could have been prevented using reasonable care; that the discharge was not caused by an act or omission of the type previously know to the source of this spill; that the cause of the discharge was not due to the violation of oil spill prevention regulations. It is unknown whether special steps were taken to avert this specific type of discharge. This discharge could have been foreseen by an experienced owner or operator knowing the circumstances of the incident. The approximately 400 gallons spilled was a minor amount of oil spilled.

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I have considered the size of the business, and I find that the civil penalty which I am about to assess will not seriously impair the company's ability to continue in business.

I hereby assess a civil penalty of \$400.00 which must be paid no later than 31 August 1977. Payment may be made by check or money order, payable to the U. S. Coast Guard and forwarded with a copy of this letter to the above address.

If you believe that this penalty is excessive or unjust, you may appeal in writing, to the Commandant, U. S. Coast Guard, via this office. In this appeal you should set forth all facts relating to the violation, including any extenuating circumstances. Your appeal to the Commandant must be received in this office no later than 31 August 1977.

If by 31 August 1977 you do not pay the penalty indicated above, or make an appeal in writing via this office, to the Commandant, U. S. Coast Guard, this case will be referred to the U. S. Attorney for collection. Should such action become necessary the Inmont Corporation, may also be required to pay court costs. Please reference the above case number in all future correspondence.

Sincerely,

J. M. MULLEN
Commander, U. S. Coast Guard
Chief, Marine Environmental Protection Branch
By direction of the District Commander

Encl:(1) Hearing Notes

BCC:
CCGD3(f) Collection Clerk (for Pollution)
MSO/COTP/UNIT/EPA OFFICE:Region II

WPM:es